

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 10,246
)
Appeal of)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare limiting the correction of an underpayment of fuel assistance benefits to benefits paid as of November 1, 1990. The issue is whether the petitioner is entitled to retroactive benefits prior to that date.

FINDINGS OF FACT

This case comes to the Board in a peculiar manner. The petitioner filed this appeal on January 25, 1991, alleging she had been underpaid ANFC, food stamps, and fuel assistance because the Department had incorrectly considered her to be a member of a "shared household". Before any hearing was held, the ANFC and food stamps portions of the case were settled to the petitioner's satisfaction--the Department admitted that the petitioner had been underpaid, and corrected her benefits retroactively within the limits of the regulations of those programs (see *infra*).

As for fuel assistance, the Department, prior to the close of this year's "heating season", agreed the petitioner had been underpaid, and it "corrected" her benefits retroactively--but only to November 1, 1990, the commencement date of the 1990-1991 "heating season". The petitioner alleges that she is entitled to retroactive

correction of all underpaid fuel assistance, dating back to the time the Department first incorrectly determined that she was a shared household.

ORDER

The Department's decision is affirmed.

REASONS

The Department has conceded that it underpaid the petitioner fuel assistance based on its erroneous designation of the petitioner as having a shared household.

However, it retroactively corrected its action only until November 1, 1990. The petitioner appears to have conceded that correction of food stamp and ANFC underpayments are limited by regulation to the twelve months prior to the loss to the household. See F.S.M. § 273.17(a) and W.A.M. § 2234.1. However, no such limitation appears in the fuel assistance regulations. In fact, those regulations are completely silent as to "underpayments".¹

The board concludes, however, that since the fuel assistance program operates on a year-to-year basis, any correction of an underpayment is limited to the ongoing "heating season" that is underway.² Therefore, the Department's decision in this matter is affirmed.

FOOTNOTES

¹There is a section in the fuel assistance regulations on "recoupment"--but this refers only to overpayments. W.A.M. § 2911.

²The board need not, and does not, address whether the

Department is required to correct underpayments brought to the Department's attention after the close of any year's heating season.

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